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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/825,576	03/31/97	PETITE	T 81607-1010

MM21/1214
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EXAMINER

EVANS, F

ART UNIT

PAPER NUMBER

2877

DATE MAILED:

12/14/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/825,576

Applicant(s)

Thomas D. Petite

Examiner

F. L. Evans

Group Art Unit

2877



☒ Responsive to communication(s) filed on Sep 29, 1998

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 21-25 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 21-25 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Claim Rejections - 35 U.S.C. § 112, first paragraph

The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 23 is rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. The application, as originally filed, was silent with respect to a remote access device for accessing a financial transaction machine comprising a single user-depressible button and a function code selected from a group consisting of automatic financial transaction machine access, a test code, an automobile lock, and a distress call as is now claimed in claim 23.

Applicant's attention is directed to lines 4-13 on page 17 of the specification.

Claim 23 introduces new matter into the disclosure of the invention. Applicant is required to cancel the new matter in the response to this Office action.

Claim Rejections - 35 U.S.C. § 112, second paragraph

The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 21-25 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The lack of an antecedent for “the user-depressable transmit button” in line 8 of claim 21 and bridging lines 6 and 7 of claim 25 renders these claims and any claim dependent therefrom indefinite.

Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-23 and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tait et al, of record, in view of Waraksa et al (U.S. Patent No. 5,319,364), cited by applicant.

Tait et al disclose a remote access device for accessing a financial transaction machine comprising a single use-depressible button, a memory for storing user identification data (including track 1 and track 1 data), a transmitter and a controller. Applicant's attention is directed to the embodiment of the invention shown in Fig. 5 and the text pertaining thereto in column 6. Tait et al do not specifically disclose the transmission of a plurality of synchronization

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bits and a function code along with identification data (track 1 and track 2 data).

Waraksa et al disclose a remote access device in which a transmitter transmits a plurality of synchronization bits, a function code and an identification code. Applicant's attention is directed to the text under the heading "ERROR CORRECTION CODE" in columns 5-7 of Waraksa et al.

At the time the invention was made, it would have been obvious to one with ordinary skill in the art to include the transmission of such bits and codes along with the identification code transmitted by the transmitter of Tait et al because transmission of a plurality of synchronization bits, a function code and an identification code was conventional in the art of remote access devices as evidenced by the disclosure of Waraksa et al.

Claim 24 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Tait et al in view of Waraksa et al as applied to claims 21-23 and 25, above, and further in view of Wollenberg, newly cited.

The above proposed remote access device has essentially every feature claimed by applicant. In line 65 of column 6, Tait et al teach varying the size and shape of the remote access device (transmitter). Tait et al do not teach configuring the device for attachment to a key ring.

Wollenberg disclose an remote access device for accessing financial transaction machines configured for attachment to a key ring/chain. Applicant's attention is directed to Wollenberg in its entirety

At the time the invention was made, it would have been obvious to one with ordinary skill

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in the art to configure the device of Tait et al for attachment to a key ring/chain, if desired, in view of the disclosure of Wollenberg and the teaching in line 65 of Tait et al.

Remarks

Applicant's arguments with respect to claims 21-²⁵~~25~~ have been considered but are moot in view of the new grounds of rejection.

Final Rejection

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Fax/Telephone Numbers

Papers related to this application may be submitted to Technology Center 2800 by facsimile transmission. The faxing of such papers must conform with the notice published in the

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Official Gazette, 1096 OG 30 (November 15, 1989). The fax number is (703) 308-7722.

If applicant wishes to send a fax containing a Proposed Amendment for discussion during either a personal interview or a telephone interview then the fax should:

- 1) Contain either the statement "**DRAFT**" or "**PROPOSED AMENDMENT**" on the Fax Cover Sheet; and
- 2) Should be unsigned by the attorney or agent.

This will ensure that the amendment will not be entered into the application and will be forwarded to the examiner as quickly as possible.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner whose telephone number is (703) 308-4805. Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-0956.


F. L. EVANS
PRIMARY EXAMINER
ART UNIT 2877

file
December 7, 1998